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**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

<b>ARIZONA ELECTRIC POWER COOPERATIVE, INC.</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>Docket No. 42113</b>
	)	
<b>BNSF RAILWAY COMPANY</b>	)	
	)	
<b>and</b>	)	
	)	
<b>UNION PACIFIC RAILROAD COMPANY</b>	)	
	)	
<b>Defendants.</b>	)	
	)	
		<b>ENTERED Office of Proceedings JUL 21 2011 Part of Public Record</b>

**REBUTTAL OF COMPLAINANT  
ARIZONA ELECTRIC POWER COOPERATIVE, INC. TO DEFENDANTS'  
RESPONSE TO THE REVISED VARIABLE COST CALCULATIONS**

**ARIZONA ELECTRIC POWER  
COOPERATIVE, INC.**

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Dated: July 21, 2011

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SURFACE TRANSPORTATION BOARD**

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**ARIZONA ELECTRIC POWER  
COOPERATIVE, INC.**

**Complainant,**

**v.**

**BNSF RAILWAY COMPANY**

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**Docket No. 42113**

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RESPONSE TO THE REVISED VARIABLE COST CALCULATIONS**

Complainant Arizona Electric Power Cooperative, Inc. ("AEPCO"), hereby submits its rebuttal to the response that Defendants BNSF Railway Company ("BNSF") and Union Pacific Railroad Company ("UP") (jointly, "BNSF/UP") filed July 19, 2011 (the "Reply"), to the revised variable cost calculations that AEPCO submitted July 5, 2011 (the "Submission"), as the Surface Transportation Board ("STB" or "Board") directed in the decision it served in this proceeding on June 27, 2011 (the "Decision").

**I. THE SCOPE OF THE BOARD'S DECISION**

The scope of the Board's Decision was very narrow. The Board stated that AEPCO's evidence was "improper" in one respect. Specifically, AEPCO's MMM

(Maximum Markup Methodology) calculations for the overhead or bridge traffic movements, which form “most of AEPCO’s traffic group,” were “costed assuming [the traffic] is moved in carload and multi-car service,” when, according to the Board, the traffic actually “moves in trainload service” over the stand-alone railroad (“SARR”). Decision at 2.<sup>1</sup> The Board asked for the parties to recost that traffic for MMM purposes.

## **II. AEPCO’S SUBMISSION**

AEPCO’s Submission did exactly what the Board’s Decision requested, i.e., AEPCO recosted the overhead traffic as if it moved in trainload service.

In the parlance of the Board’s URCS Phase III costing program, treating the traffic as trainload requires entering the traffic as unit train or “UT.” When that is done, the program automatically uses an empty/return ratio of 2.0. To do anything else entails making the type of movement-specific adjustment that the Board expressly prohibited in Ex Parte No. 657 (Sub-No. 1), Major Issues in Rail Cases (STB served Oct. 30, 2006) (“Major Issues”). AEPCO also reran the MMM analysis for the Board’s benefit and provided detailed flow charts showing the linkages among the various files so that the Board and BNSF/UP could follow and replicate AEPCO’s calculations.

As BNSF/UP note in their Reply at 5, AEPCO utilized the Board’s 2009 URCS Phase III unit costs for the revised variable costing. These unit costs were not available when AEPCO submitted its rebuttal evidence, and BNSF/UP appear to agree that it is appropriate to use the Board’s official 2009 URCS Phase III unit costs. AEPCO’s

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<sup>1</sup> AEPCO does not agree that its costing was improper, especially as AEPCO followed the designation in the source data and BNSF/UP costed the traffic the same way.

objective was to facilitate the Board's review so that a decision on the merits can be issued as promptly as possible. AEPCO Submission at 3-4. AEPCO further explained that it was undertaking the analysis as an accommodation to the Board, which should not be construed as acquiescence in or agreement with the Board's Decision. *Id.* at 3.

### III. BNSF/UP's Reply

In contrast, BNSF/UP did not comply with the Board's instructions. They used their Reply to address various matters that are outside the scope of the Board's Decision. The Board did not ask for additional presentation as to the other matters addressed by BNSF/UP, and the Board should ignore the additional information they presented.

Furthermore, the electronic workpapers that BNSF/UP submitted are deficient. BNSF/UP did not document or otherwise explain how their calculations are to be incorporated in the larger MMM and/or DCF spreadsheets. Moreover, at least seven critical spreadsheets are missing altogether, and BNSF/UP's spreadsheets cannot be utilized as filed. Accordingly, BNSF/UP's filing should be ignored, and AEPCO's submission should be utilized as the best and only competent evidence of record.

Those deficiencies in BNSF/UP's Reply are discussed further below.

#### A. BNSF/UP'S Manipulation of the Empty/Return Ratio

BNSF/UP claim that AEPCO's use of the empty return ratio for unit train traffic was improper, and they purport to "have corrected this error by costing the SARR's non-coal traffic using defendants' empty return ratios for the applicable traffic group."

BNSF/UP Reply at 4-5. However, BNSF/UP can effectuate their "correction" only by overriding the values in the Board's URCS Phase III costing program, which, as

explained above, automatically utilizes an empty/return ratio of 2.0 for trainload or unit train traffic. BNSF/UP's approach constitutes the sort of movement-specific manipulation that the Board prohibited in *Major Issues*, as explained above.

Furthermore, the exercise is nonsensical as it treats the movement as trainload or unit train for some URCS purposes (such as the absence of various switching costs), but not for others (the empty/return costs). In effect, BNSF/UP are seeking to create the costing equivalent of a "frankenfish" for the purpose of lowering the variable costs of the SARR's non-coal, primarily intermodal, traffic in order to dilute the MMM relief for the issue traffic. *Major Issues* prohibits this type of results-oriented approach.

**B. Revised Variable Costs for the Coal Traffic**

BNSF/UP next criticize AEPCO for not having updated the variable costs for the issue traffic. BNSF/UP Reply at 5. However, the Board requested revised variable costs only for the overhead or bridge traffic. Decision at 2. AEPCO has no general objection to the recosting of this other traffic, but it is outside the scope of the Board's Decision.

**C. Costing of the Issue Traffic**

BNSF/UP also contend that the variable costs for the issue traffic should be calculated using the SARR route. BNSF/UP Reply at 5-6. This matter has nothing to do with the Board's Decision, and BNSF/UP's discussion of the subject here is improper. Furthermore, the issue has already been thoroughly addressed in the parties' evidence and briefs. For present purposes, it is sufficient to note that the jurisdictional threshold and stand-alone cost determinations are separate and discrete, the rate is already set at the higher of the two, and there is no basis for allowing the determination of one to result in a

higher determination of the other. Beyond that, AEPCO doubts very much that BNSF/UP would agree that the SARR routing should govern the jurisdictional threshold determination when the SARR routing is shorter than the real-world routing. Again, BNSF/UP's approach is results-oriented.

**D. Revised ATC Costing**

BNSF/UP also claim that the same adjustments should be made to the variable costs that are used in the calculation of ATC (Average Total Cost). BNSF/UP Reply at 6-8. BNSF/UP argue that this adjustment is needed "[a]s a matter of logical consistency." Id. at 7. However, the Board was well aware at the time it issued its Decision that AEPCO had originally used the same variable cost calculations for both its ATC and MMM calculations. If the Board had wanted the parties to revisit ATC, then the Board could and would have instructed the parties to that effect. The Board's Decision is silent on ATC, and BNSF/UP's efforts here are unauthorized and apparently intended to divert and/or delay. In addition, the seven days allowed for its rebuttal submission would be insufficient for AEPCO to review BNSF/UP's ATC calculations, if they had submitted complete calculations, which they did not as discussed below.

**E. BNSF/UP's Defective Electronic Workpapers**

Even if BNSF/UP's contentions were otherwise meritorious, and they are not for the reasons stated, BNSF/UP's Reply would still be defective because the electronic workpapers that BNSF/UP submitted are incomplete and dysfunctional. As detailed in Attachment No. 1, there are at least seven (7) linked files that BNSF/UP did not include in their filing. BNSF/UP's calculations cannot be utilized without the missing files.

Furthermore, even if the missing files were provided, the workpapers still could not be utilized because BNSF/UP have provided only intermediate files (without source data or ultimate results) and without any guidance for how to utilize the files in the MMM or DCF calculations. (In contrast, AEPCO provided a complete set of stand-alone cost files as well as detailed flow charts showing how the revised files should be substituted for the previous files and utilized in the calculations.)

It is apparent that BNSF/UP used their two weeks not to comply with the Board's Decision, but instead to address collateral matters. BNSF/UP's Reply as filed is unusable and should be disregarded in its entirety.

#### **IV. CONCLUSION**

AEPCO urgently needs a reasonable railroad cost structure so that it can begin the process of acquiring coal supplies for 2012 and thereafter. AEPCO's Submission is the best and only competent evidence of record that complies with the Board's Decision. AEPCO, therefore, requests that the Board accept AEPCO's evidence and proceed thereafter to an expeditious resolution of AEPCO's complaint.

Respectfully submitted,

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Dated: July 21, 2011



## Attachment No. 1

### List of Critical Electronic Work Papers Not Provided by BNSF/UP in their July 19, 2011 Reply Evidence

Files Not Provided by BNSF/UP but Linked to Files Provided by <u>BNSF/UP in July 19 Reply Filing</u> (1)		File Provided by BNSF/UP in July 19 Reply Filing (2)	Link to File in Column (1) Found in	Level (3)	Range (4)
1.	BNSF REV DIV SUM Rebuttal for ATC All EL	BNSF_NC_REV_FORECAST Rebuttal RR Reply.xlsx	Sheet 1		T1:U1, T4:U141298
2.	BNSF_General Freight Inputs Reb All EL.xlsx	BNSF_General Freight ATC Summary Reb All EL.xlsx	BNSF General Freight		A2:A025816
3.	BNSF_GF_MMM_VC sc EL.xlsx	BNSF_REV DIV SUM Rebuttal for ATC RR Reply.xlsx	Sheet 1		J6:J25819
4.	BNSF_Intermodal Inputs Reb All EL.xlsx	BNSF_Intermodal ATC Summary Reb All EL.xlsx	BNSF Intermodal		A2:AT32860
5.	BNSF_NC_REV_FORECAST Rebuttal All EL.xlsx	ANR Non-Coal MMM Model Inputs Rebuttal RR Reply.xlxl	BNSF Non-Coal		O4:X141298
6.	UP ATC Summary Reb All EL.xlsx	UP ATC Summary Reb TRANSFER for ATC RR Reply.xlsx	Sheet 1		C4:C48545
7.	UP ATC Summary Reb TRANSFER for ATC All EL.xlsx	UP Selected Traffic Forecast Rebuttal.xlsx	UP_Selected_Traffic_Forecast		BO2, BO4:BO70710

**CERTIFICATE OF SERVICE**

I hereby certify that on this 21st day of July, 2011, I caused copies of the foregoing filing to be served on counsel for Defendants Union Pacific Railroad Company and BNSF Railway Company by hand as follows:

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